

RECORDATION NO. 8094 FILED & RECORDED

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INTERSTATE COMMERCE COMMISSION
CONSTRUCTION AND CONDITIONAL SALE AGREEMENT

Dated as of September 15, 1975

(No. 89)

Between

ST. LOUIS - SAN FRANCISCO RAILWAY COMPANY

and

THE BOATMEN'S NATIONAL BANK OF ST. LOUIS, as Agent

Re:

\$1,900,250 Maximum Principal Amount 10.25%
Conditional Sale Indebtedness due 1991

of

ST. LOUIS - SAN FRANCISCO RAILWAY COMPANY

(Frisco Railway No. 75-1)

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CONSTRUCTION AND CONDITIONAL SALE AGREEMENT

CONSTRUCTION AND CONDITIONAL SALE AGREEMENT, dated as of September 15, 1975, between ST. LOUIS - SAN FRANCISCO RAILWAY COMPANY, a Missouri corporation (the "Railroad"), and THE BOATMEN'S NATIONAL BANK OF ST. LOUIS, a national banking association organized and existing under the laws of the United States of America, acting as Agent under a Finance Agreement dated as of September 15, 1975 (the "Finance Agreement" and said Bank, so acting, being hereinafter called the "Bank").

WHEREAS, the Railroad has agreed to construct, sell and deliver to the Bank, and the Bank has agreed to purchase, the railroad equipment described in Schedules A-1 and A-2 attached hereto (collectively the "Equipment" and individually "Item of Equipment" or "Item");

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

SECTION 1. CONSTRUCTION AND SALE.

Pursuant to this Agreement, the Railroad will construct the Equipment for the account of the Bank at its plant set forth in Schedules A-1 and A-2 hereto, and will sell and deliver to the Bank, and the Bank will purchase from the Railroad and accept delivery of and pay for (as hereinafter provided) the Equipment, each Item of which shall be constructed in accordance with the specifications therefor referred to in said Schedules and in accordance with such modifications thereof as may be agreed upon in writing between the Railroad and the Bank (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each Item of Equipment shall conform to all Department of Transportation requirements and specifications for new equipment, and to all standards recommended by the Association of American Railroads, interpreted as being applicable to railroad equipment of the character of such Items as of the date of this Agreement, and each Item of Equipment (except replacement items referred to in Section 7 hereof) will be new railroad equipment.

SECTION 2. DELIVERY.

2.1. The Railroad will deliver the various Items of Equipment to the Bank, freight charges, if any, prepaid, and, except as herein otherwise provided, in accordance with the delivery schedule set forth in Schedules A-1 and A-2 hereto.

2.2. The Railroad's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Railroad's reasonable control, including but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities or delays in receiving necessary materials, or delays of carriers or subcontractors.

2.3. Notwithstanding the preceding provisions, any Equipment not delivered, accepted and settled for on or before the outside delivery date provided therefor in Schedules A-1 and A-2 hereto shall be excluded herefrom and not included in the term "Equipment" as used in this Agreement.

2.4. If any Equipment shall be excluded from this Agreement pursuant to the immediately preceding paragraph, the Railroad and the Bank shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom.

2.5. From time to time upon completion of each Item or of a number of Items of Equipment by the Railroad, such Item or Items shall be presented to an inspector or other authorized representative of the Bank (who shall be an officer or employee of the Railroad) for inspection and, if such Item or Items conform to the Specifications, such inspector or representative shall, acting for both the Bank as such authorized representative and for the Railroad, execute and deliver to the Bank and the Railroad, in such number of counterparts or copies as may reasonably be requested, a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such Item or Items have been inspected and accepted on behalf of the Bank and the Railroad and are marked in accordance with Section 6.1 hereof.

SECTION 3. PURCHASE PRICE AND PAYMENT.

3.1. The base prices per Item of Equipment, which may include freight charges, if any, to place of delivery, but exclusive of interest and all other charges, are set forth in Schedules A-1

and A-2 hereto. The base prices, are subject to such increase or decrease as may be agreed to by the Railroad and the Bank, and the term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased; provided that the Purchase Price for each Item of Equipment shall not exceed the maximum price provided therefor in Schedules A-1 and A-2 hereto. If on the Closing Date (as defined in Section 4 hereof) the Purchase Price under this Agreement would, but for the provisions of this sentence, exceed the maximum price provided in Schedules A-1 and A-2 hereto, the Bank and the Railroad will enter into an agreement excluding from this Agreement such Item or Items of Equipment as will, after giving effect to such exclusion, reduce such Purchase Price under this Agreement to not more than the maximum price provided in Schedules A-1 and A-2 hereto.

3.2. For the purpose of making settlement for the Equipment, the Equipment shall be divided into such number of groups of Items of Equipment as shall be agreed to by the parties hereto (each such group being hereinafter called a "Group").

3.3. The Bank, on each Closing Date with respect to a Group, shall pay to the Railroad the lesser of (i) the Purchase Price of such Group or (ii) the maximum price of such Group provided in Schedules A-1 and A-2 hereto, provided that there shall have been delivered to the Bank at the time of delivery by the Railroad of the notice fixing the Closing Date with respect to such Group, in such number of counterparts or copies as may reasonably be requested, the following documents, in form and substance satisfactory to the Bank and to its special counsel hereinafter mentioned:

(a) A Bill of Sale from the Railroad to the Bank, transferring to the Bank title to the Items of Equipment in such Group and warranting to the Bank that at the time of delivery to the Bank the Railroad had legal title to such Items and good and lawful right to sell such Items and such Items were free of all claims, liens and encumbrances of any nature, except only the rights of the Railroad under this Agreement and the lien of the Railroad's First Mortgage, dated December 1, 1946, which lien has been duly subordinated to the rights of the Bank under this Agreement (which manner of subordination shall be evidenced to and satisfactory with the Bank and its special counsel);

(b) A Certificate or Certificates of Acceptance with respect to the Items of Equipment in such Group as contemplated by Section 2 of this Agreement and further stating that there was plainly, distinctly, permanently and conspicuously marked on each side of each of such Items at the time of its acceptance, in letters not less than one inch in height, the following legend:

"Unit Subject to Conditional Sale Agreement
Recorded with the I.C.C."

(c) An invoice for the Items of Equipment in such Group accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices of such Items as set forth in said invoice and that such prices do not exceed the fair value of such units;

(d) An opinion of Messrs. Chapman and Cutler, who are acting as special counsel for the Bank, dated as of the Closing Date, stating that (i) this Agreement, and, assuming the due authorization, execution and delivery by the Investors referred to therein, the Finance Agreement has been duly authorized, executed and delivered by the respective parties thereto and are valid and binding instruments enforceable in accordance with their respective terms, (ii) title to the Items of Equipment in such Group is validly vested in the Bank, free of all claims, liens and encumbrances except only the rights of the Railroad under this Agreement and the lien of the Railroad's First Mortgage, dated December 1, 1946, which lien has been duly subordinated to the rights of the Bank under this Agreement, (iii) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of this Agreement or if such approval is necessary, such approval has been obtained; (iv) this Agreement has been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Bank in any State of the United States of America or in the District of Columbia; (v) the offering, sale and delivery of this Agreement, the conditional sale indebtedness payable hereunder and the Certificates of Interest issued pursuant to the Finance Agreement under the circumstances contemplated by the Finance Agreement constitute an exempted transaction under the Securities Act of 1933, as amended, which does not require registration thereunder of this Agreement, said conditional sale indebtedness or said Certificates of Interest and under the Trust Indenture Act of 1939 which does not require qualification of an indenture thereunder,

and if any Investor under the Finance Agreement should in the future deem it expedient to sell its interest in said conditional sale indebtedness or said Certificates of Interest (which none of the Investors now contemplate or foresee) such sale would be an exempted transaction under the Securities Act of 1933, as amended, providing that the circumstances involved in any such transaction do not constitute the Investor an "underwriter" of said conditional sale indebtedness or said Certificates of Interest within the meaning of said Act, and the transaction is not made through an "underwriter" within the meaning of said Act, and (vi) the opinion of counsel for the Railroad is satisfactory in scope, form and substance to special counsel and in their opinion the Bank is justified in relying thereon; and such opinion shall also cover such other matters as may reasonably be requested by the Bank or the other parties to the Finance Agreement;

(e) A favorable opinion of counsel for the Railroad, dated as of the Closing Date, covering the matters referred to in clauses (ii), (iii) and (iv) of paragraph (d) above and stating that (i) the Railroad is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation, and has the power and authority to own its properties and to carry on its business as now conducted and is duly qualified to do business as a foreign corporation in all states where the character of its properties or the nature of its activities makes such qualification necessary; (ii) this Agreement and the Finance Agreement have each been duly authorized, executed and delivered on behalf of the Railroad and are valid and binding instruments enforceable against the Railroad in accordance with their respective terms; and (iii) the execution and delivery by the Railroad of this Agreement and the Finance Agreement do not violate any provision of any law, any order of any court or governmental agency, the Charter or By-laws of the Railroad, or any indenture, agreement, or other instrument to which the Railroad is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad; and

(f) Certificate of Vice President of the Railroad to the effect that no Event of Default as specified in this Agreement or any event which with the lapse of time and/or notice provided for in this Agreement would constitute such an Event of Default, has occurred and is continuing, and to the effect that, since December 31, 1974 there has been no adverse change in the affairs or financial condition of the Railroad.

In giving the opinions specified in subparagraphs (d) and (e) above, counsel may qualify any opinion to the effect that any agreement is a valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in said subparagraph (d), counsel may rely, as to the title to the Items of Equipment, on the opinion of counsel for the Railroad.

The obligation of the Bank hereunder to make payment for any Group is hereby expressly conditioned upon the prior receipt by the Bank, as provided in the Finance Agreement, of all the funds to be furnished to the Bank by the various parties to the Finance Agreement with respect to such Group.

It is understood and agreed that the Bank shall not be required to make any payment with respect to, and shall have no right or interest in, any Equipment excluded herefrom pursuant to Section 2 or 3 hereof.

SECTION 4. CONDITIONAL SALE TO RAILROAD.

4.1. Upon completion of the sale by the Railroad to the Bank of a Group of Equipment pursuant to Sections 1, 2 and 3 of this Agreement, the Bank will sell and deliver to the Railroad, and the Railroad will purchase from the Bank and accept delivery of and pay for, such Group of Equipment as hereinafter provided. Delivery of such Group shall be made by the Bank to the Railroad at the point or points at which such Group shall have been delivered by the Railroad to the Bank pursuant to Section 2 of this Agreement. The Purchase Price of such Group payable by the Railroad to the Bank, as hereinafter provided, shall be the same as the Purchase Price as shall have been paid by the Bank pursuant to Section 3 of this Agreement and the method of payment thereof shall be as hereinafter provided.

4.2. The Railroad hereby acknowledges itself to be indebted to the Bank in the amount of, and hereby promises to pay in cash to the Bank at such place as the Bank may designate, the Purchase Price of the Items of Equipment in each Group (hereinafter referred to as the "Conditional Sale Indebtedness") in installments as follows:

(a) With respect to each Group delivered to and accepted by the Railroad prior to January 15, 1976, on January 15, 1976 an installment of interest accrued on the unpaid balance of the Conditional Sale Indebtedness from and including the Closing Date for such Group to

but not including January 15, 1976 at a rate per annum equal to the commercial loan rate of The Boatmen's National Bank of St. Louis from time to time throughout such period generally in effect on borrowings having a 90-day maturity to its most responsible and substantial domestic corporate borrowers; and

(b) On April 1, 1976 and on each October 1 and April 1 thereafter to and including April 1, 1991, an installment of interest accrued on the unpaid balance of the Conditional Sale Indebtedness at a rate per annum equal to 10.25%; and

(c) On April 1, 1977 and on each April 1 thereafter to and including April 1, 1991, an installment, in addition to the installment of interest then payable pursuant to clause (b) above, equal to $6\frac{2}{3}\%$ of the original aggregate amount of the Conditional Sale Indebtedness.

4.3. The term "Closing Date" with respect to each Group shall mean such date which is not more than ten business days following presentation by the Railroad to the Bank of the invoice, or invoices, and the Certificate or Certificates of Acceptance with respect to the Group, as shall be fixed by the Railroad by written or telegraphic notice delivered to the Bank at least seven business days prior to the Closing Date designated therein.

4.4. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays on which banks in the States of Illinois and Missouri are authorized or required to close.

4.5. Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

4.6. The Railroad will pay interest at the rate of 11.25% per annum upon all unpaid balances of indebtedness and (to the extent legally enforceable) upon interest, after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

4.7. All payments provided for in this Agreement shall be made by the Railroad in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

4.8. Except as provided in Section 7 hereof, the Railroad shall not have the privilege of prepaying any installment of the indebtedness prior to the date it becomes due hereunder.

SECTION 5. TITLE TO THE EQUIPMENT.

5.1. After each sale by the Railroad to the Bank of a Group of Items of Equipment, the Bank shall and hereby does retain the full security title to and property in such Equipment until the Railroad shall have made all of the payments hereunder and shall have kept and preformed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as herein provided. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

5.2. When and only when the Bank shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided and all the Railroad's other obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Bank, except that the Bank, if requested by the Railroad so to do, will execute a bill or bills of sale of the Equipment releasing its security title thereto and property therein to the Railroad or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address specified in Section 21 hereof, and will execute in the same manner and deliver at the same place, for filing, registering, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Railroad to the Equipment, and will pay to the Railroad any money paid to the Bank, pursuant to Section 7 hereof and not therefore applied as therein provided. The Bank hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale to file such certificate within a reasonable time after written demand by the Railroad.

SECTION 6. MARKING OF EQUIPMENT.

6.1. The Railroad will cause each Item of Equipment to be kept numbered with its road number as set forth in Schedules A-1 and A-2 hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon both sides of each Item of Equipment in letters not less than one inch in height, the words "Unit subject to Conditional Sale Agreement recorded with the I.C.C.", with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the security title of the Bank to such Item of Equipment and its rights under this Agreement. The Railroad will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Railroad will not change the road number of any Item of Equipment except with the consent of the Bank and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Manufacturer by the Railroad and filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

6.2. Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Railroad or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of the right of the Railroad to use the Equipment under this Agreement.

SECTION 7. CASUALTY OCCURRENCES.

7.1. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise (each such occurrence, except for any requisition which by its terms is indefinite or does not exceed the original term of this Agreement, being hereinafter called a "Casualty Occurrence"), prior to the payment of the indebtedness in respect of the Purchase Price of such Item,

together with interest thereon and all other payments required hereby, the Railroad shall, within ten days after it shall have been determined that such Item of Equipment has suffered a Casualty Occurrence, fully inform the Bank in regard thereto. When the total value of Items of Equipment have suffered a Casualty Occurrence (exclusive of Items of Equipment having suffered a Casualty Occurrence with respect to which payments shall have been made to the Bank pursuant to this Section 7) shall exceed \$50,000 (or such lesser amount as the Railroad shall elect), the Railroad shall, within 30 days of such event, pay to the Bank a sum equal to the aggregate Casualty Payment (as defined in Section 7.3 hereof) of such Items of Equipment as of the date of such payment and shall file with the Bank a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad setting forth the Casualty Payment of each Item of Equipment suffering a Casualty Occurrence.

7.2. Any money paid to the Bank pursuant to Section 7.1 hereof shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Railroad shall direct in a written instrument filed with the Bank, to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or to or toward the cost of an Item or Items of Equipment of standard gauge railroad equipment (other than work or passenger equipment) to replace such Item or Items of Equipment having suffered a Casualty Occurrence, as the Railroad shall direct in such written instrument. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on the first installment date for the payment of the Purchase Price of the Equipment next following receipt by the Bank of such written direction, to prepay installments of the Purchase Price of the Equipment thereafter falling due in the inverse order of their maturities, but without premium, and whether or not such amount shall be sufficient to prepay one or more entire installments (or portions thereof) of the Purchase Price. In case of replacement the amount to be paid by the Bank in respect of any replacing Item shall not exceed the lesser of the cost of such Item or the "fair market value" of such Item on the earliest date when any of such money was paid to the Bank. For the purposes of this Section "fair market value" shall be determined on the basis of, and shall be equal in amount to, the price which would obtain in an arm's length transaction between an informed and willing buyer and an informed and willing seller under no compulsion to sell; provided that if the Railroad and the Bank are unable to agree upon the "fair market value" as so defined within 60 days following such payment by the Railroad to the Bank, such value shall be determined by a qualified independent Appraiser. The term "Appraiser" shall mean such independent appraiser as the Railroad and the Bank may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be

selected by the Railroad, the second by the Bank and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Bank and the Manufacturer. The determination so made shall be conclusively binding upon both the Railroad and the Bank. The expenses and fees of the Appraiser shall be borne by the Railroad.

7.3. The payment to be made to the Bank in respect of each Item of Equipment having suffered a Casualty Occurrence (the "Casualty Payment") shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Payment shall be determined.

7.4. So long as no Event of Default shall have occurred and be continuing, any money paid to the Bank pursuant to this Section 7 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in (i) such direct obligations of the United States of America or obligations for which the faith of the United States is pledged to provide for the payment of principal and interest or (ii) open market commercial paper given the highest rating by a national credit agency or (iii) in certificates of deposit of commercial banks in the United States of America having capital and surplus aggregating at least \$50,000,000, in each case maturing in not more than one year from the date of such investment (all such investments being hereinafter called "Investments"), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest or earned discount received by the Manufacturer on any Investments shall be held by the Manufacturer and applied as herein provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Bank thereon, up to the cost (including accrued interest or earned discount) thereof, shall be held by the Bank for application pursuant to this Section 7, and any excess shall be paid to the Railroad. If such proceeds (plus such interest or earned discount) shall be less than such cost, the Railroad will promptly pay to the Manufacturer an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Bank in connection with the purchase and sale of Investments.

7.5. The Railroad will cause any replacing Item to be plated or marked as provided in Section 6.1 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all of the terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement. Title to all such replacements shall be

free and clear of all liens and encumbrances and shall be taken initially and shall remain in the name of the Bank subject to the provisions hereof, and the Railroad shall promptly execute, acknowledge, deliver, file and record all such documents (including the filing with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act of an appropriate supplemental agreement describing such replacements) and do any and all such acts as may be necessary to cause such replacements to come under and be subject to this Agreement and to protect the title of the Bank to such replacements. All such replacements shall be warranted in like manner as the Items replaced, and such warranties shall then accrue to the benefit of the Manufacturer and its successors and assigns.

7.6. Whenever the Railroad shall file with the Bank, pursuant to the foregoing provisions of this Section 7, a written direction to apply money to or toward the cost of a replacing Item of standard gauge railroad equipment, the Railroad shall file therewith in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice-President or the Comptroller or other Chief Accounting Officer of the Railroad certifying that such replacing Item is standard gauge railroad equipment (other than work or passenger equipment) and has been plated or marked as required by the provisions of this Section 7 and certifying the cost of such replacing unit, the amount which such replacing Item would have cost if acquired on the earliest date when any such money was paid to the Bank and that the cost thereof does not exceed the fair value of such Item; and

(b) an opinion of counsel for the Railroad that title to such replacing Item is vested in the Bank free and clear of all liens and encumbrances, and that such Item has come under and become subject to this Agreement.

7.7. In the event that any moneys paid to, or held by, the Bank pursuant to this Section 7 are applied to the prepayment of indebtedness in respect of the Purchase Price, the Railroad will pay to the Bank on the date of such application interest then accrued and unpaid on the indebtedness so prepaid.

If an Event of Default shall have occurred and be continuing, then so long as such event of default shall continue all money then held by the Bank pursuant to this Section 7 shall be applied by the Bank as if such money were money received upon the sale of Equipment pursuant to Section 17 hereof.

7.8. In order to facilitate the sale, or other disposition of any Equipment suffering a Casualty Occurrence, the Bank shall upon request of the Railroad, after deposit by the Railroad of a sum equal to the Casualty Payment of such Equipment, execute and deliver to the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Conditional Sale Agreement, in such form as may be reasonably requested by the Railroad.

7.9. In the event that prior to the expiration of the term of this Agreement, the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period ending on or before said date, the Railroad's duty to pay the indebtedness in respect of the purchase price thereof shall continue for the duration of such requisitioning or taking. The Railroad shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

SECTION 8. TAXES.

All payments to be made by the Railroad hereunder will be free of expense to the Bank for collection or other charges and will be free of expense to the Bank in respect of the amount of any local, state or federal taxes, license and registration fees, assessments, charges, fines, penalties, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees and governmental charges similar or dissimilar to the foregoing (other than net income, excess profits and similar taxes) hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which expenses, taxes and licenses the Railroad assumes and agrees to pay on demand in addition to the indebtedness in respect of the purchase price of the Equipment. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Equipment or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Bank solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Bank or result in a lien upon any Item of Equipment; provided, however, that the Railroad shall be under no obligation to pay any taxes, assessments, licenses, charges, fines

or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder. If any such expenses, taxes, assessments, licenses, charges, fines or penalties shall have been charged or levied against the Bank directly and paid by the Bank, the Railroad shall reimburse the Bank on presentation of invoice therefor; provided, however, that the Railroad shall not be obligated to reimburse the Bank for any expenses, taxes, assessments, licenses, charges, fines or penalties so paid unless the Bank shall have submitted notice in writing to the Railroad at least five business days in advance of payment thereof.

SECTION 9. REPORTS AND INSPECTIONS.

9.1. On or before April 1 in each year, commencing with the year 1976, the Railroad will furnish to the Bank an accurate statement, as of the preceding December 31, (a) showing the amount, description and numbers of the Items of Equipment then subject to this Agreement, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Bank may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 6.1 hereof shall have been preserved or replaced.

9.2. The Bank shall have the right, at its sole cost and expense by its authorized representative, to inspect the Equipment and the Railroad's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Manufacturer the existence and proper maintenance thereof during the continuance of this Agreement.

SECTION 10. POSSESSION, USE AND MAINTENANCE.

10.1. The Railroad, so long as it shall not be in default under this Agreement, shall be entitled to the possession of the Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with another and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by or controlling the Railroad, or over which it has trackage rights, and the Equipment may be used also upon connecting and other railroads in the usual interchange

of traffic, from and after delivery of the Equipment by the Bank to the Railroad; provided, however, that the Railroad shall not assign or permit the assignment of any Item of Equipment to service involving the regular operation and maintenance thereof outside the continental United States.

10.2. The Railroad shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Railroad shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange. The Railroad shall not modify any Item of Equipment without the written authority and approval of the Manufacturer which shall not be unreasonably withheld, provided that no such approval is necessary if and to the extent such modification is required by Section 12 hereof. Any parts installed or replacements made by the Railroad upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Bank, without cost or expense to the Bank.

SECTION 11. PROHIBITION AGAINST LIENS.

11.1. The Railroad will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien or a charge upon any Item of Equipment equal or superior to the security title of the Bank, and any liens, encumbrances or charges which might be levied against or imposed upon any Item of Equipment as a result of the failure of the Railroad to perform or observe any of its covenants or agreements under this Agreement, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested by the Railroad in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Bank, adversely affect the property or rights of the Bank hereunder.

11.2. This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undertermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other liens arising in the ordinary course of business and, in each case, not delinquent or the lien of the Railroad's First Mortgage, dated December 1, 1946, which lien has been duly subordinated to the rights of the Bank under this Agreement (such liens being herein called "permitted liens").

SECTION 12. RULES, LAWS AND REGULATIONS.

During the term of this Agreement the Railroad will comply in all respects with all laws of the jurisdictions in which its

operations involving the Equipment may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Railroad will conform therewith at its expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Bank, adversely affect the property or rights of the Bank hereunder.

SECTION 13. INDEMNITIES AND WARRANTIES OF RAILROAD.

13.1. The Railroad agrees to indemnify, protect and hold harmless the Bank against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including claims for strict liability in tort and counsel fees, arising out of retention by the Bank of security title to the Equipment, or out of the use and operation thereof during the period when security title thereto remains in the Bank. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of the Equipment and the conveyance of the Equipment, as provided in Section 5.2 hereof, or the termination of this Agreement in any manner whatsoever.

13.2. The Railroad will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any Item or of all the Equipment.

13.3. The Railroad guarantees that the Items of Equipment will be built in accordance with the requirements, specifications and standards set forth in Section 1 hereof and warrants the Equipment will be free from defects in material and workmanship under normal use and service.

13.4. The Railroad covenants and agrees that it will warrant to the Bank that, at the time of delivery of each Item of Equipment pursuant to Section 2 of this Agreement, it had legal title to such Item and good and lawful right to sell such Item and the title to

such Item was free of all claims, liens and encumbrances of any nature except only the rights of the Railroad under this Agreement and the lien of the Railroad's First Mortgage, dated December 1, 1946, which lien has been duly subordinated to the rights of the Bank under this Agreement; and the Railroad further covenants and agrees that it will defend title to such Item against the demands of all persons whomsoever based on claims originating prior to the delivery of such Item by the Railroad to the Bank; all subject, however, to the provisions of this Agreement and the rights of the Railroad hereunder.

SECTION 14. PATENT INDEMNITIES.

The Railroad agrees to indemnify, protect and hold harmless the Bank from and against any and all liability, claims, demands, costs, charges, and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Bank or its assigns because of the use in or about the construction or operation of any Item of Equipment of any design, article or material which infringes or is claimed to infringe on any patent or other right.

SECTION 15. ASSIGNMENTS.

15.1. Except as otherwise provided in Section 10.1 hereof, the Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or transfer the right to possession of any Item of Equipment without first obtaining the written consent of the Bank. An assignment or transfer to a railroad company or other purchaser which shall acquire all or substantially all the lines of railroad of the Railroad, and which by execution of an appropriate instrument satisfactory to the Bank, shall assume and agree to perform each and all of the obligations and covenants of the Railroad hereunder, shall not be deemed a breach of this covenant.

15.2. All or any of the rights, benefits and advantages of the Bank under this Agreement, including the right to receive the payments herein provided to be made by the Railroad may be assigned by the Bank and reassigned by an assignee at any time or from time to time.

15.3. Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the Bank's right, security title and interest in and to the Equipment subject only to such reservations as may be contained in such assignment.

From and after the receipt by the Railroad, of the notification of any such assignment, all payments thereafter to be made by the Railroad hereunder shall, to the extent so assigned, be made to the assignee at the address of the assignee specified in the aforesaid notice.

15.4. In the event of any such assignment or successive assignments by the Bank of security title to the Equipment and of the Bank's rights hereunder with respect thereto, the Railroad will, whenever requested by such assignee, change the names and word or words to be marked on each side of each Item of Equipment so as to indicate the security title of such assignee to the Equipment with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent or trustee if the first assignee is an agent or trustee) will be borne by the subsequent assignee.

15.5. In the event of any such assignment prior to the completion of delivery of the Equipment, the Railroad will, in connection with settlement for any Group subsequent to such assignment, deliver to the assignee, at the time of delivery by the Railroad of notice fixing the Closing Date with respect to such Group, all documents reasonably required by the terms of such assignment to be delivered by the Railroad to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested.

SECTION 16. DEFAULTS.

16.1. In the event that any one or more of the following events of default ("Events of Default") shall occur and be continuing, to-wit:

(a) The Railroad shall fail to pay in full any sum payable by the Railroad when payment thereof shall be due under Section 3 or 5 hereof and such default shall continue for five days; or

(b) The Railroad shall fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Bank for such compliance for

more than 30 days after written notice from the Bank specifying the default and demanding the same to be remedied; or

(c) Any representation or warranty made by the Railroad herein or in any statement or certificate furnished to the Bank proves untrue in any material respect as of the date of issuance or making thereof; or

(d) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Railroad and (unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees within 30 days after such appointment or 60 days after such petition shall have been filed, whichever shall be earlier, or

(e) Any other proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) and (unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Railroad or for the property of the Railroad in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) The Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any Item of the Equipment;

then at any time after the occurrence and during the continuance of such an Event of Default the Bank may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Bank, declare the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such declaration at the rate of 11.25% per annum; to the extent legally enforceable, and the Bank shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

16.2. The Bank may waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Railroad in writing to that effect. Upon any such waiver the respective rights of the parties shall be as they would have been if no such default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

SECTION 17. REMEDIES.

17.1. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Bank may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Bank, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any Item thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except

as hereinafter in this Section 17 expressly provided, and may remove the same from possession and use of the Railroad and for such purpose may enter upon the premises of the Railroad or where the Equipment may be located without judicial process if this can be done without breach of the peace, and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad.

17.2. In case the Bank shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Railroad for the delivery of the Equipment to the Bank, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be reasonably designated by the Bank and shall there deliver the Equipment or cause it to be delivered to the Bank; and, at the option of the Bank, the Bank may keep the Equipment on any of the lines of railroad or premises of the Railroad, for a period not exceeding 180 days, until the Bank shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Bank reasonably convenient. The agreement to deliver the Equipment as hereinbefore provided is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Bank shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Bank and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

17.3. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such default and after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Section 16.2 hereof), the Bank (after retaking possession of the Equipment as hereinbefore in this Section 17 provided) may at its election retain the Equipment as its own and make such disposition thereof as the Bank shall deem fit (including, if the Bank so elects, the leasing of the Equipment on such terms as it shall deem fit), and in such event all the Railroad's rights in the Equipment will thereupon terminate and, to the extent not prohibited by any mandatory requirements of law, all payments made by the Railroad

may be retained by the Bank as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, within 30 days of receipt of notice of the Bank's election to retain the Equipment for its own use, as hereinafter provided, shall pay or cause to be paid to the Bank the total unpaid balance of the indebtedness in respect of the Purchase Price of all the Equipment, together with interest thereon accrued and unpaid and all other payments due by the Railroad under this Agreement, then in such event absolute right to the possession of, title to and property in such Equipment shall pass to and vest in the Railroad; or the Bank, with or without the retaking of possession thereof may, at its election, sell the Equipment, or any Item thereof, free from any and all claims of the Railroad, or of any other party claiming by, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Bank may determine; and the proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Bank in taking possession of, removing, storing and selling the Equipment, shall be credited to the amount due to the Bank under the provisions of this Agreement. Written notice of the Bank's election to retain the Equipment for its own use may be given to the Railroad by telegram or registered mail addressed to the Railroad as provided in Section 21 hereof, at any time during a period of 30 days after the entire indebtedness in respect of Purchase Price shall have been declared immediately due and payable as hereinbefore provided; and if no such notice shall have been given, the Bank shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Section 17.

17.4. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Bank may specify, in one lot and as an entirety, or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Bank may determine, provided that the Railroad shall be given written notice of such sale not less than 30 days prior thereto, by mail addressed as provided herein. If such sale shall be a private sale, it shall be subject to the rights of the Railroad to purchase or provide a purchaser, within 30 days after notice of the proposed sale price, at the same price offered in writing by the intending purchaser or a better price. In the event that the Railroad does not exercise said right to purchase or provide a purchaser for the Equipment, the Bank may bid for and become the purchaser of the Equipment, or any Item thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this Section), and in payment

of the Purchase Price therefor the Bank shall be entitled to have credited on account thereof all sums due to the Bank from the Railroad hereunder.

17.5. Each and every power and remedy hereby specifically given to the Bank shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Bank. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Bank in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

17.6. If, after applying as aforesaid all sums of money realized by the Bank, there shall remain any amount due to it under the provisions of this Agreement, the Bank may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Bank, there shall remain a surplus in the possession of the Bank, such surplus shall be paid to the Railroad.

17.7. The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Bank in enforcing its remedies under the terms of this Agreement. In the event that the Bank shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Bank may recover reasonable expenses, including attorneys' fees and the amount thereof shall be included in such judgment.

17.8. The foregoing provisions of this Section are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

SECTION 18. APPLICABLE STATE LAWS.

18.1. Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable

state law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale agreement and enforced as such.

18.2. Except as otherwise provided in this Agreement, the Railroad, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any Item thereof, and any other requirements as to the time, place and terms of sale thereof, and other requirements with respect to the enforcement of the Bank's rights hereunder and any and all rights of redemption.

SECTION 19. EXTENSION NOT A WAIVER.

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Manufacturer shall impair or affect the Bank's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Bank's rights or the obligations of the Railroad hereunder. The Bank's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Bank's rights hereunder with respect to any subsequent payments or defaults therein.

SECTION 20. RECORDING.

The Railroad will cause this Agreement, any assignment hereof and any supplements hereto and thereto to be filed, recorded or deposited and re-filed, re-recorded or re-deposited, if necessary, with the Interstate Commerce Commission, and otherwise as may be required by law or reasonably requested by the Bank for the purpose of proper protection, to the satisfaction of counsel for the Bank of its security title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Bank certificates or other evidences of such filing, recording or depositing, and an opinion or opinions of counsel for the Railroad with respect thereto, satisfactory to the Bank.

SECTION 21. NOTICE.

Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at the following specified addresses:

(a) to the Railroad: St. Louis - San Francisco Railway Company, 3253 East Trafficway, Springfield, Missouri 65802, Attention: Vice President-Finance, with a copy to 906 Olive Street, St. Louis, Missouri 63101, Attention: Secretary,

(b) to the Bank: The Boatmen's National Bank of St. Louis, Broadway and Olive Streets, Box 236, St. Louis, Missouri 63166, Attention: Corporate Trust Department,

(c) to any assignee of the Bank, or of the Railroad, at such address as may have been furnished in writing to the Railroad or the Bank, as the case may be, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

SECTION 22. HEADINGS.

All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

SECTION 23. EFFECT AND MODIFICATION OF AGREEMENTS.

This Agreement and the Schedules relating hereto, exclusively and completely state the rights and agreements of the Bank and the Railroad with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Bank and the Railroad.

SECTION 24. LAW GOVERNING.

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Missouri; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce

Act and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

SECTION 25. CONSOLIDATION OR MERGER.

In case of any consolidation or merger to which the Railroad or the Bank shall be a party, or in case of any sale of all or substantially all the assets of the Railroad or the Bank, the corporation resulting from such consolidation or merger (if other than the Railroad or the Bank) or the corporation which shall acquire such assets, shall expressly assume all obligations hereunder, not then performed, or the Railroad or the Bank, as the case may be, and shall become entitled to all rights hereunder of the Railroad or the Bank, as the case may be.

SECTION 26. EXECUTION.

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by their officers or representatives, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

THE BOATMEN'S NATIONAL BANK OF ST. LOUIS

(Corporate Seal)

By


Its Vice President

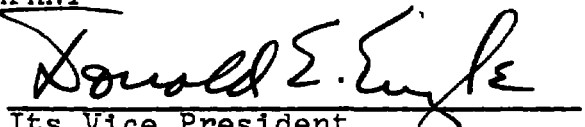
Attest:


Assistant Trust Officer


ST. LOUIS - SAN FRANCISCO RAILWAY
COMPANY

(Corporate Seal)

By


Its Vice President

Attest:


Secretary

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

On this 27th day of OCTOBER, 1975, before me personally appeared MARVIN A. MUELLER, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE BOATMEN'S NATIONAL BANK OF ST. LOUIS, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Rose Morris

Notary Public **ROSE MORRIS**

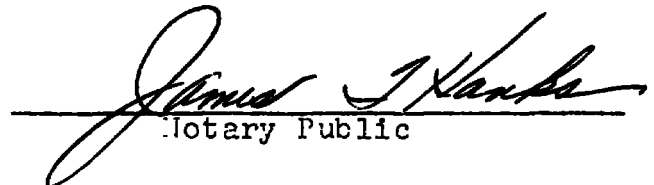
(Seal)

My Commission Expires: **JUL 30 1979**

This is to certify that this act was performed in the
City of St. Louis which adjoins St. Louis County,
within and for which I have been commissioned.

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

On this 28th day of October, 1975, before me personally appeared DONALD E. ENYR, to me personally known, who being by me duly sworn, says that he is a Vice President of ST. LOUIS - SAN FRANCISCO RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

(Seal)

My Commission expires:

June 30, 1976

SCHEDULE A-1

to Construction and Conditional Sale Agreement

DESCRIPTION OF EQUIPMENT 50 100-ton 2400 Cubic
Feet Capacity Open Top
Hopper Cars bearing
identifying numbers
SLSF 97040 to 97089,
both inclusive

SPECIFICATIONS No. 971

BASE PRICE \$26,600 per Item
(\$1,330,000 for 50 Items)

MAXIMUM PRICE \$29,260 per Item
(\$1,463,000 for 50 Items)

DELIVER TO The Boatmen's National
Bank of St. Louis

PLACE OF DELIVERY Springfield, Missouri

ESTIMATED DELIVERY DATES October, 1975 - January,
1976

OUTSIDE DELIVERY DATE July 1, 1976

RAILROAD'S PLANT Springfield, Missouri

SCHEDULE A-2

to Construction and Conditional Sale Agreement

DESCRIPTION OF EQUIPMENT 20 Cabooses, Wide Vision
Cupola bearing identifying
numbers SLSF 1414 to 1433,
both inclusive

SPECIFICATIONS No. 970

BASE PRICE \$19,875 per Item
(\$397,500 for 20 Items)

MAXIMUM PRICE \$21,862 per Item
(\$437,250 for 20 Items)

DELIVER TO The Boatmen's National
Bank of St. Louis

PLACE OF DELIVERY Springfield, Missouri

ESTIMATED DELIVERY DATES October, 1975 - January,
1976

OUTSIDE DELIVERY DATE July 1, 1976

RAILROAD'S PLANT Springfield, Missouri